The Government of Alberta's Guidelines on Consultation with Metis Settlements on Land and Natural Resource Management 2016

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1. Introduction

The Government of Alberta's Policy on Consultation with Metis Settlements on Land and Natural Resource Management, 2015 (Policy) was released on March 31st 2016. To fully implement the *Policy*, the Government of Alberta (GoA) has developed these *Guidelines* along with sector-specific consultation matrices (Appendix A). The *Guidelines* are intended to be responsive to operational needs and informed by best practices. For this reason, the GoA will review the *Guidelines* on an as-needed basis and will engage with Metis Settlements, industry, and government ministries when doing so. For the purposes of these *Guidelines*, the term "Crown" is used interchangeably with "GoA" and "Alberta".

These *Guidelines* will come into effect on the date of their official release.

A. Purpose of the *Guidelines*

The *Guidelines* are intended to clarify the expectations of all parties engaged in the consultation process. They provide an overview of the procedures to follow in the consultation process and demonstrate how the GoA is seeking to fulfil its consultation responsibilities under the *Policy*. Because consultation is fact-specific, these *Guidelines* encourage a process that remains flexible enough to allow the GoA to assess consultation requirements on a case-by-case basis. Therefore, these *Guidelines* only represent a starting point. Each step within the *Guidelines* must be undertaken in good faith towards:

1) gaining a better understanding of Metis Settlement members' concerns regarding potential adverse impacts of a project on their harvesting or traditional use activities; within the meaning of the *Policy*.

2) substantially addressing the concerns through a meaningful process, and;

3) developing positive working relationships.

The *Guidelines* apply to all strategic and project-specific decisions that have the potential to adversely impact Metis Settlement members' harvesting or traditional use activities. For more information on the types of Crown decisions that the Aboriginal Consultation Office (ACO) assesses for potential consultation, please refer to pg. 3 of the *Policy*.

B. Crown's Consultation and Accommodation

Consultation is a process intended to help parties understand and consider the potential adverse impacts of anticipated Crown decisions on the continued exercise of Metis Settlement members' harvesting or traditional use activities with a view to substantially address them. Through consultation the GoA seeks to reconcile Metis Settlement members' harvesting and traditional use activities with the interests of all Albertans. During consultation, the Government of Alberta may find the need to accommodate Metis Settlements. The primary goal of accommodation will be to avoid, minimize or mitigate adverse impacts of a Crown decision on Metis Settlement members' harvesting or traditional use activities.

2. Roles and Responsibilities in the Consultation Process

The Government of Alberta (GoA), project proponents, Metis Settlements, and the Alberta Energy Regulator (AER) all have roles and responsibilities within the GoA's consultation process. These roles and responsibilities are outlined in this section.

Whether GoA consults directly or delegates procedural aspects to proponents, the expectation is that all parties will participate in the process in good faith.

A. The Government of Alberta

The GoA is responsible for overseeing and managing all substantive aspects of consultation, including determining if consultation is triggered; assessing which Metis Settlements to consult and at what depth; ensuring that Metis Settlements are provided with sufficient information about the proposed decision or activity; considering information on Metis Settlement concerns specific to the project or initiative; and assessing what, if any, accommodation is required. Although the GoA may delegate some procedural aspects of consultation to proponents, the Crown retains the sole responsibility for overseeing the overall consultation process and ensuring that the proponent's consultation activities comply with the *Policy* and *Guidelines*. The process for managing delegated procedural aspects of consultation is described in section 3 – Process for Consultation.

GoA assessment of consultation adequacy will generally occur within statutory and regulatory timelines. Depending on the potential adverse impact on Metis Settlement members' harvesting or traditional use activities, the scope of the Metis Settlements concerns that are raised, and the specifics of the proposed project or initiative, consultation timelines may vary.

Crown-led consultation may be carried out by the GoA on decisions regarding land and natural resource management that have the potential to adversely impact Metis Settlement members' harvesting or traditional use activities. These decisions could include, but are not limited to, the following:

- Regulatory change;
- Infrastructure and facility development;
- Policy development; and
- Planning initiatives.

Ministries with statutory and regulatory responsibilities related to Crown land and natural resource management in Alberta are responsible for ensuring that Metis Settlements are consulted if there is potential for adverse impact on Metis Settlement members' harvesting or traditional use activities. Depending on the case, any or all of the following may apply: ministries may work with the Aboriginal Consultation Office to ensure that consultation objectives are met in a manner that is consistent with the standards and requirements in the *Policy* and these Guidelines; they may carry out the procedural

and/or substantive aspects of consultation activity, including pre-consultation and adequacy assessments; they may act as a project proponent; or they may delegate the procedural aspects of consultation.

i. Aboriginal Consultation Office, Indigenous Relations

The ACO, administered by the Ministry of Indigenous Relations, provides consultation management services to meet the needs of GoA ministries, project proponents, Metis Settlements, and the AER in a way that is efficient, coordinated, and consistent. The ACO will direct, monitor, and support the consultation activities of GoA departments as well as proponents and Metis Settlements, as required. In addition, the ACO supports consistent application of policy, process, and best practices. ACO support includes the following:

- Providing pre-consultation assessment advice or direction;
- Providing advice or direction during the consultation process;
- Providing advice or direction to Metis Settlements and proponents if disputes arise during the consultation process;
- Providing staff to participate in consultation meetings with proponents and Metis Settlements, as required;
- Evaluating consultation records; and
- Providing an assessment of consultation adequacy.

For activities requiring GoA decisions, the ACO may provide support as described above if requested by GoA ministries. The role and responsibilities of the decision maker and ACO may be outlined under the terms of a cross-ministry agreement.

For activities requiring AER approval, the ACO will manage the consultation process for the Crown and provide support as described above. The ACO will decide whether or not consultation was adequate and provide that decision to the AER.

ii. Alberta Environment and Parks

Alberta Environment and Parks (AEP), Parks Division, is responsible for regulatory and land management activities of Alberta's Parks system, including Wilderness Areas, Ecological Reserves, Natural Areas, Heritage Rangelands, Wild land Provincial Parks, Provincial Parks, and Provincial Recreation Areas and Willmore Wilderness Park.

Alberta Environment and Parks (AEP), as stewards of air, land, water, and biodiversity, will lead the achievement of desired environmental outcomes and sustainable development of natural resources for Albertans. AEP takes a cumulative effects management approach that establishes outcomes for an area by balancing environmental, economic, and social considerations by implementing appropriate plans and tools to ensure those outcomes are met.

Examples of initiatives potentially requiring Crown-led consultation led by AEP include:

- AEP provincial/regional policy development and implementation;

- AEP management frameworks, sub-regional plans, and other planning initiatives (e.g., caribou range planning and similar species-at-risk plans); and
- Implementation of regional plans.

Examples of decisions potentially requiring proponent-led consultation pursuant to the *Policy* include those under the following legislation:

- *Environmental Protection and Enhancement Act*;
- *Public Lands Act*; and
- *Water Act*.

Consultation may be engaged when the Parks Division is considering a decision that has the potential to adversely impact the continued exercise of harvesting or traditional use activities by members of a Metis Settlement. In specific circumstances, the following statutory and regulatory decisions made by AEP under Parks-related legislation may require consultation:

- Regulatory and policy changes related to resource protection, resource management, land use, or activities in the Alberta Parks system;
- Establishment of new parks or expansion of existing areas;
- Development of new facilities within parks;
- Re-designation of a park to a different classification;
- Development or revision of park management plans;
- Issuance of dispositions within the Alberta Parks system; and
- Issuance of research or collection permits within the Alberta Parks system.

iii. Alberta Culture and Tourism, Historic Resource Management Branch

Alberta Culture and Tourism's Historic Resources Management Branch (HRMB) is mandated to protect and preserve Alberta's historic resources under the legislative authority of the *Historical Resources Act (HRA)*, which applies to all lands within provincial jurisdiction, both publicly and privately owned. The *HRA* protects historic resources such as designated historic places, archaeological and paleontological sites, and historic buildings, while regulating development to preserve these significant historical resources. Traditional use sites that are considered historic resources include, but are not limited to, burial grounds, ceremonial sites, gathering sites, and historic sites or ceremonial locations.

As part of the *HRA* regulatory process, when a known traditional use site of an historic resources nature has the potential to be adversely affected by a development project, either consultation with the respective Metis Settlements or avoidance of the site may be required. Metis Settlement traditional use sites of an historic resource nature that are known to Alberta Culture appear on the *Listing of Historic Resources (Listing)* as a generalized legal land description. The *Listing* informs developers of potential impacts their proposed project may have on a traditional use site of an historic resource nature, without revealing the specific location and information of the traditional use site.

Additionally, section 31 of the *HRA* states that a person who discovers an historic resource in the course of making an excavation for a purpose other than for seeking historic resources shall notify the minister of the discovery. This section applies to newly discovered traditional use sites of an historic resource

nature that are encountered during the development activities. If such historic resources are encountered and may be impacted by the proposed development, the proponent is required to notify Alberta Culture immediately.

iv. Alberta Municipal Affairs

Alberta Municipal Affairs is responsible under the *Special Areas Act* for administering approximately 2.6 million acres of public land within southeast Alberta, which is administered by the Special Areas Board. The Special Areas Board is directly responsible to the Minister of Municipal Affairs.

Municipal Affairs is also responsible, through part 15 of the *Municipal Government Act*, for all functions of local government in improvement districts (IDs).

Consultation may be required when Municipal Affairs makes decisions associated with lands under its control that have the potential to adversely impact the continued exercise of harvesting or traditional use activities.

Municipal Affairs, under the purview of the *Municipal Government Act*, also provides support and advice to assist municipalities in providing Albertans with strong and effective local government. While Metis Settlements consultation is the responsibility of the GoA, municipalities could be delegated some procedural aspects of Metis Settlements consultation as a project proponent when applying to the GoA for regulatory decisions.

v. Alberta Agriculture and Forestry (AAF)

Alberta Agriculture and Forestry (AAF) is responsible for ensuring the forestry and agriculture sectors of Alberta adhere to policy regarding uses of the land and associated natural resources.

The ministry has responsibility to regulate both forest and wildfire management activities primarily on Alberta's forested public lands. Consultation may be required when AAF is considering a decision on land that has the potential to impact the exercise of harvesting or traditional use activities.

Agricultural activities dominate the privately-owned settled area of the province. Activities on Crown land that are related to agricultural production such as the grazing of livestock or rural development initiatives (e.g. safe and orderly development of natural gas distribution systems) may require consultation. In these cases, consultation is in accordance with the *Public Lands Act* and is currently administered through Alberta Environment and Parks.

Examples of initiatives potentially requiring Crown-led consultation led by the Ministry include:

- AAF provincial/regional policy development and implementation;
- AAF planning initiatives (e.g., wildfire management plan (fire smart planning, wildfire management planning), Non- Forest Management Agreement Forest Management Unit planning);
- Implementation of regional plans; and
- Establishment of dispositions related to monitoring and research sites.

Examples of decisions potentially requiring proponent-led consultation pursuant to the Policy include those under the following legislation:

- *Public Lands Act*; and
- *Forest and Prairie Protection Act*.

vi. Alberta Transportation

Alberta Transportation is responsible for the long-term planning of the highway network and oversees the network's design, construction, and maintenance activities. When consultation is required pursuant to the Policy, Alberta Transportation may lead the consultation process as the proponent.

vii. Alberta Infrastructure

Alberta Infrastructure is responsible for infrastructure planning and for building and managing government-owned infrastructure. Consultation may be required by the Policy in some cases, and Alberta Infrastructure may be a proponent for such projects.

viii. Proponents

When considering proposals regarding land and natural resource management, Alberta may delegate procedural aspects of consultation to another party, such as the project proponent. Proponents may include industry, municipal governments, or any other organization or individual requiring a provincial approval. Procedural aspects of consultation to be delegated, and carried out on behalf of the Crown, may include notifying and engaging with Métis Settlements to discuss project-specific issues and possible mitigation. Fulfillment of these delegated procedural aspects should comply with the Policy and be carried out as directed within these Guidelines.

Section 3 of these Guidelines provides more specific information regarding procedural aspects of consultation. Appendix A provides sector-specific consultation matrices to assist proponents in understanding the potential adverse impacts of activities and how they influence consultation requirements under the Policy.

Proponents are encouraged to notify and consult with Métis Settlements as early as possible in the pre-application stage. Proponents must document their consultation activities, share their consultation record with Métis Settlements and provincial staff, and advise the GoA of any issues that arise. Depending on the responses received from Métis Settlements and the specific activities involved, a proponent may be required to repeat certain steps under these Guidelines or to take additional steps to ensure meaningful consultation has taken place.

The GoA recognizes that many Métis Settlements and proponents have long-standing and established relationships. The GoA encourages strong relationships and clear communication between proponents and Métis Settlements.

B. Metis Settlements

Where a proponent or the Crown is required to provide written notification to Métis Settlements of a proposed land and resource management decision or activity, Métis Settlements will have the

opportunity to state whether their members' harvesting or traditional use activities may be adversely impacted.

When responding to written notification, the Metis Settlements should respond in writing, name the specific project and any applicable Gol consultation file number, identify the location of the potential adverse impacts, and clearly identify the potential adverse impacts on their members' harvesting or traditional use activities that require further consultation.

During the consultation process, Metis Settlements are expected to work with the Gol and project proponents on avoiding, minimizing, or mitigating impacts. Metis Settlements should engage in consultation as outlined in section 1.1 of the Guidelines.

C. Alberta Energy Regulator

Pursuant to the Responsible Energy Development Act (REDA), the AER has jurisdiction for upstream oil, gas, oil sands, and coal activities. The AER has regulatory responsibility for the entire life cycle of upstream energy resource development in the province. To accomplish this, the AER delivers and is accountable for regulatory functions previously provided by the AER's predecessors, the Energy Resources Conservation Board, and by AEP under the "specified enactments" (Public Lands Act, Mines and Minerals (Part 4) Act, Water Act, and the Environmental Protection and Enhancement Act) in respect of energy resource development.

The Crown has sole responsibility to assess the adequacy of all consultation done pursuant to the Policy and these Guidelines. The AER works closely with the AER to ensure that consultation required for applications made to the AER under the specified enactments occurs prior to the AER's regulatory decision. The AER, when appropriate, will provide the AER with advice relating to the mitigation of potential impacts to harvesting or traditional use activities. Statements of concern received by the AER from Metis Settlements will be provided to the AER.

Direction on AER and AER interaction will be described in a new Ministerial Order. In addition, the AER and AER will create or update existing joint operating procedures that set out the procedures to administer and coordinate the operations of the AER and the AER as matters relating to Metis Settlements consultation. These procedures will be reviewed and amended as required.

3. Process for Consultation

The AER or the applicable Gol ministry may delegate procedural aspects of consultation, including:

- Contacting Metis Settlements by mail, telephone, or other means;
- Providing and describing project plans and descriptions; and

- [redacted]

[redacted]

- [redacted]
- [redacted]
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- [redacted]

A. [redacted]

[redacted]

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B. [redacted]

[redacted]

1. [redacted]
2. [redacted]
3. [redacted]
4. [redacted]
5. [redacted]
6. [redacted]

5. Consultation Process (Flowchart)

The following flowchart provides a general overview of the consultation process.

D. Processing Timelines

The ACO strives to process all assessments quickly and thoroughly. Within those general limits, and recognizing that timelines may change depending on how consultations proceed, the ACO will be expected to act within the timelines below. Timelines start the GoA working day following receipt of an assessment request.

To the extent applicable, the timelines should provide guidance to other GoA ministries for their consultation; however, in consultation with the ACO, these timelines may be altered, as required, for example, when the other GoA ministry, as the proponent, carries out procedural aspects of consultation or makes the assessment.

- Pre-consultation assessment:
    - Level 1 – If assessment request documentation is complete, the ACO will complete pre-consultation assessments within 4 GoA working days for streamlined consultation.
    - Level 2 – If assessment request documentation is complete, the ACO will complete pre-consultation assessments within 8 GoA working days for standard consultation.
    - Level 3 – If assessment request documentation is complete, the ACO will complete pre-consultation assessments within 10 GoA working days for extensive consultation.

When a traditional use site of an historic resource value with an HRV 4c designation on the *Listing of Historic Resources* may be impacted by the proposed development, the ACO will provide Alberta Culture with a copy of the ACO pre-consultation assessment notice that is sent to the proponent.

- Adequacy assessment will proceed after Métis Settlements have had the opportunity to review the record of consultation (also known as "consultation record"):
    - Level 1 – If the consultation summary documentation is complete, up to 10 GoA working days are required for adequacy assessment for streamlined consultation.
    - Level 2 – If the consultation summary documentation is complete, up to 10 GoA working days are required for adequacy assessment for standard consultation.
    - Level 3 – If the consultation summary documentation is complete, up to 20 GoA working days are required for adequacy assessment for extensive consultation.

These timelines may be revised for appropriate reasons in certain cases. For example:

- Timelines may be increased or decreased if information from Métis Settlements, the Crown, or proponents demonstrates that potential adverse impacts require either more or less discussion;
- Timelines may be increased if the proponent amends the project and additional consultation is required; and
- Timelines may be increased if the proponent provided incomplete project information or consultation records to the ACO.
- Timelines may vary if a GoA ministry has its own consultation process and timelines to follow.

E. Consultation Process Timelines

The following timelines apply to the consultation process. All timelines noted in these *Guidelines* start the GoA working day following the date of verified document delivery to the destination. The ACO recognizes that specific timelines may need to be extended in certain circumstances, depending, for example, on the complexity of the project. Other relevant factors that may extend consultation timelines include circumstances that make a timely response difficult for a Metis Settlement, such as an emergency situation in the community.

The ACO expects that proponents will devote adequate time to address Metis Settlements' issues and concerns that arise during consultation.

- Level 1: Streamlined consultation
    - Notified Metis Settlements have up to 15 GoA working days to respond to project notification.
    - Where Metis Settlements respond to notification, consultation should be complete within 15 GoA working days of response to notification.
    - If the 15-day notification period has expired and the Metis Settlement has not responded to the project notification within that time, the proponent, after providing Metis Settlements with 5 GoA working days to review the consultation record, may ask the ACO to review the consultation record.

- Level 2: Standard consultation
    - Notified Metis Settlements have up to 15 GoA working days to respond to project notification.
    - If no response is received within approximately 5 GoA working days, the proponent will follow up with the Metis Settlement.
    - If no response is received within approximately 10 GoA working days of the initial notification, the proponent will follow up a second time with the Metis Settlement.
    - Where Metis Settlements respond to notification, consultation should be completed within 20 GoA working days of response to notification.
    - If the 15-day notification period has expired and the Metis Settlement has not responded, the proponent, after giving Metis Settlements 5 GoA working days to review the consultation record, may ask the ACO to review the consultation record.

- Level 3: Extensive consultation
    - Once the proponent's consultation plan is approved by the ACO following the pre-consultation assessment:
        - Notified Metis Settlements have up to 20 GoA working days to respond to project notification.
        - If no response is received after approximately 10 GoA working days, the proponent will follow up with the Metis Settlement.

- If no response is received after approximately 15 GoA working days of the initial notification, the proponent will follow up a second time with the Metis Settlement.
- Where Metis Settlements respond to notification, consultation should be substantially underway or completed within 60 GoA working days of response to notification.
- If the 20-day notification period has expired and there is no response to the second follow-up letter, the proponent, after giving the Metis Settlements 10 days to review the consultation record, may ask the ACO to review the consultation record.

- Level 3: Extensive consultation for projects with Environmental Impact Assessments (EIAs)
    - Once the proponent's consultation plan is approved by the ACO following the pre-consultation assessment:
        - Notified Metis Settlements have up to 20 GoA working days to respond to project notification.
        - If no response is received within approximately 10 GoA working days, the proponent will follow up with the Metis Settlement.
        - If no response is received within approximately 15 GoA working days, the proponent will follow up a second time with the Metis Settlement.
        - Where Metis Settlements respond to the notification, consultation is expected to be completed within the applicable regulatory timelines.
        - If the 20-day notification period has expired and there is no response to the second follow-up letter, the proponent, after giving Metis Settlements 10 days to review the consultation record, may ask the ACO to review the consultation record.

F. Stages of Consultation

i. Pre-consultation Assessment

The pre-consultation assessment is intended to assess whether consultation is required. The ACO will:

- Assess whether or not consultation is required;
- If consultation is required, identify which Metis Settlements are to be consulted;
- Assess the potential adverse impacts of a proposed decision or activity;
- Assess the scope of the consultation based on available information about the potential adverse impacts to harvesting or traditional use activities; and
- Assign a level of consultation in order to provide direction or recommendations on the depth of the consultation.

The scope of consultation is related to:

1) The nature of the project, and;

2) Its potential adverse impacts on Metis Settlement members' harvesting or traditional use activities, at that location.

The pre-consultation assessment identifies three potential levels of consultation, which correspond with the scope of the potential adverse impacts. The level of consultation identifies how deep the consultation should be and what process steps are required.

- Level 1: Streamlined – Notification with opportunity for Metis Settlement to respond
- Level 2: Standard – Notification with opportunity for Metis Settlement to respond and required follow-up by proponent
- Level 3: Extensive – Preparation of a consultation plan, notification with opportunity for Metis Settlement to respond, and required follow-up by proponent.

Figure 1 below illustrates a framework for determining the level of consultation.

Factors that may determine the sensitivity of a location include history of use and level of contemporary use, the presence of ceremonial sites, or other values to indicate the importance of the site for harvesting or traditional use activities.

Figure 1: Framework for assessing scope of adverse impacts and determining depth of consultation

Sensitivity of the location (based on the level and nature of harvesting or traditional use activities)	**High**	Level 2 – standard	Level 3 – extensive	Level 3 – extensive
	Moderate	Level 2 – standard	Level 2 – standard	Level 3 – extensive
	Low	Level 1 – streamlined	Level 1 – streamlined	Level 2 – standard
Nature of the project		**Low impact**	**Moderate impact**	**High impact**

Sector-specific matrices describing typical project activities are located in Appendix A. The matrices provide an initial assessment of the impacts of the activity on harvesting or traditional use activities based on the nature of the project and identify the depth of consultation required.

ii. Information Sharing

a. Information review

After receiving a request for a pre-consultation assessment from a proponent, or for consultation advice from another ministry, the ACO will consider:

- Information about the proposed project and the relevant decisions and activities;
- Available information regarding the harvesting or traditional use activities, including:
    - Information from Alberta Culture and Tourism and

- Existing agreements or protocols between Metis Settlements and the GoA;

- Whether the proposed activity can be regarded as having been adequately covered by a previous consultation and has had either minor or no subsequent changes and therefore is not subject to further consultation on potential adverse impacts on harvesting or traditional use activities; and
- Maps depicting the geographic areas where the GoA consults a Metis Settlement.

In the pre-consultation assessment notice the ACO will strive to advise proponents of Alberta Culture requirements if applicable, and will copy Alberta Culture and Tourism on the same. Consultation overseen by the ACO and consultation overseen by Alberta Culture and Tourism will proceed concurrently.

b. Determining the level of consultation

The ACO will provide proponents with direction or recommendations to other GoA ministries on which Metis Settlements must be consulted and on the level of consultation required. The ACO may use information from past consultation and other information about Metis Settlements to assess the depth of consultation required.

The level of the consultation required and associated timelines may be revised during the consultation process if information from Metis Settlements, proponents, or the Crown demonstrate that potential adverse impacts require either more or less discussion.

c. Information package to Metis Settlements

The proponent will provide a comprehensive information package to the identified Metis Settlements as early as possible, including:

- Notice that the proponent has been advised to consult with the Metis Settlement and share information about the proposed activity;
- The level of consultation;
- A description of the consultation process , where applicable;
- A GoA consultation file number, if applicable;
- A plain language information package describing the proposed activity, location, and potential impacts;
- Any information provided by the GoA about potential Metis Settlements concerns in the area;
- A description of the GoA or regulatory authorization being sought; and
- A request that the Metis Settlement send feedback to the proponent within the prescribed time period about how the project may impact their members' harvesting or traditional use activities.

d. Follow-up with Metis Settlement

A Metis Settlement response to a notification package should include a written submission to the proponent, quoting a GoA consultation file number, if applicable. The submission from Metis Settlements should:

- Describe specific harvesting or traditional use activities that may be adversely impacted by the project at that location, and;

- Identify if and why the adverse impacts described may require a deeper level of consultation.

In response to any feedback received, the ACO will expect the proponent to follow up with the Metis Settlement. For level 2 or level 3 consultations, if a response has not been received from the Metis Settlement, the proponent must follow up and again request feedback about how the project may impact their members' harvesting or traditional use activities.

e. Consultation monitoring

The ACO may make staff available, upon request, to participate in consultation meetings with proponents and Metis Settlements for any level 3 consultation, or in situations where delegating procedural aspects of consultation is not appropriate.

The ACO will monitor activity on consultation files. The responsible ACO staff will also be available to assist with any issues that arise during the consultation process. Requests for assistance will be accepted from Metis Settlements or from proponents and the objective of the ACO's participation is to assist all parties in effectively proceeding with the consultation process with the intention of addressing concerns regarding harvesting or traditional use activities.

At any time during the consultation process the ACO may redirect proponents to repeat steps that have not been completed adequately.

iii. Exploring Concerns

Proponents are encouraged to consider options to avoid, minimize, or mitigate adverse impacts respecting harvesting or traditional use activities brought forward during consultation with the Metis Settlement. Exploration of these concerns should be documented thoroughly in the consultation record. The adequacy assessment process will take into account the efforts of proponents to address Metis Settlement concerns.

Efforts to accommodate concerns may include:

- Modifying project design;
- Modifying project location or footprint;
- Modifying project timing;
- Seeking opportunities to mitigate adverse impacts to harvesting or traditional use activities; and
- Exploring options to address concerns regarding access.

The ACO may also review the project specific concerns raised by Metis Settlements and if further clarification is required, through discussion with Metis Settlements and project proponents, seek to identify what mitigation measures may be appropriate.

iv. Verifying the Consultation Record

The proponent must send a copy of the consultation record to the appropriate Metis Settlement for their review. The Metis Settlement has the opportunity to review the consultation record for accuracy and comment back to the proponent, the ACO, or both. If the proponent's consultation record appears inaccurate to the Metis Settlement or the ACO, the ACO will work with the proponent and provide direction to address gaps. If components of consultation remain outstanding, the ACO will consider

whether it is appropriate to continue to involve the proponent or whether the GoA will complete the outstanding components.

- Metis Settlements review of the consultation record:
    - Level 1 – Metis Settlements will have 5 GoA working days to review the consultation record for streamlined consultation.
    - Level 2 – Metis Settlements will have 5 GoA working days to review the consultation record for standard consultation.
    - Level 3 – Metis Settlements will have 10 GoA working days to review the consultation record for extensive consultation.

The time period provided for the verification of the consultation record is for review and assessment of accuracy, it is not intended to be an extension to the consultation timelines.

v. Determining Consultation Adequacy

The ACO is responsible for deciding the adequacy of consultation for activities requiring AER approvals. In other cases, ACO shall provide a recommendation to a Crown decision-maker as to whether consultation is adequate. Although the optimal outcome of consultation is that all consulting parties reconcile interests, agreement of all parties is not required for consultation to be adequate.

In assessing adequacy, the ACO will review information gathered during the pre-consultation assessment information review, the proponent's consultation record and any information provided by the Metis Settlement. The ACO will consider, at a minimum, if the following factors have been addressed:

- Were all identified Metis Settlements provided project information and given an opportunity to participate in the consultation process?
- Did the proponent provide project-specific information within a reasonable time before approvals were required or before the project was scheduled to start?
- If the Metis Settlement provided site-specific concerns about how the proposed project may adversely impact their members' harvesting or traditional use activities, did the proponent make reasonable attempts to avoid and/or mitigate those potential impacts?
- Did the proponent indicate how they intend to mitigate any potential adverse impacts to the continued exercise of Metis Settlement members' harvesting or traditional use activities?

The ACO will provide advice to GoA ministries and to the AER as to what mitigation was identified in the consultation process.

The ACO will strive to advise the appropriate ministry if concerns that are not project- and location-specific are presented in the consultation record. That ministry may follow up with Metis Settlements as appropriate to clarify what process may be followed to discuss those concerns.

G. Review

The Government of Alberta and Metis Settlements, with input from industry and other stakeholders, will review the *Policy* and *Guidelines* to ensure that they reflect developments in Metis Settlements consultations, and respond to the future needs of Metis Settlements, as well as industry and other stakeholders. The purpose of the review will be to assess the performance, standards and best practices of the consultation process. Reviews will take place from time to time as agreed to between Alberta and Metis Settlements.

H. Contact Information

For an up-to-date list of consultation contacts at the ACO, please refer to our website at http://www.aboriginal.alberta.ca/575.cfm.

Appendix A: Sector-Specific Consultation Matrices

The *Sector-Specific Consultation Matrices (Matrices)* are presented as a planning tool for proponents and in order to support transparency with Métis Settlements. The *Matrices* provide an initial assessment based upon knowledge of the physical impacts of an activity but they are not a definitive categorization of the potential adverse impact on harvesting or traditional use activities. The *Matrices* identify the nature of the activity and the potential biophysical impact, and propose the depth of consultation that may be required in the absence of other factors.

The Crown usually assesses consultation on a case-by-case basis in order to determine if consultation is required under the *Policy* and, if so, at what level. The level of consultation identified at the pre-consultation stage may change as consultation progresses and new information is provided. Potential adverse impacts to harvesting or traditional use sites may also alter the consideration and rationale for consultation requirements.

Aboriginal traditional use sites, such as burial sites, ceremonial sites, historic structures, etc., may be considered historic resources under the *Historical Resources Act (HRA)*. Alberta Culture identifies Aboriginal traditional use sites as an HRV 4c in the *Listing of Historic Resources* (the *Listing*). The *Listing* is a primary tool for regulating land-based development and is used exclusively to direct a proponent to apply to Alberta Culture for approval of a development under these circumstances. Métis Settlement consultation may be required by Alberta Culture for HRV 4c sites that may be impacted by a proposed development. The presence of HRV 4c lands within a proposed project footprint may change the level of consultation required. It is important to note that the *Listing* is only one tool that Alberta Culture uses to determine if an application for *HRA* approval is required for all other types of historic resources (i.e., archaeological, paleontological, and historic).

In all cases the tool retains discretion to modify the level of consultation. There may be modifications to the level of consultation required, based on characteristics of the project, including location, scale, duration, and intensity. For example, if a project is cited proximate to a mission Metis settlement harvesting or traditional use site, consultation may be assessed at a higher level, or if the expected duration is significantly shorter than average, then consultation may occur at a lower level.

Sector-Specific Consultation Matrices

Sector	Low impact (TYPICALLY NEED CONSULTATION) These activities are typically short duration (less than 2 years), small in size (less than 5 ha), and have little or minimal environmental impacts.	Moderate impact (TYPICALLY NEED CONSULTATION) These activities are typically moderate in duration (more than 2 years), moderate in size (greater than 5 ha), and have moderate environmental impacts.	High impact (NO CONSULTATION REQUIRED) These activities are typically long in duration (more than 10 years), large in size and scale or complexity, have extensive environmental impacts, and include significant short- and long-term disturbances.
Forestry and timber management	Reclamation plans (vegetation management component only) Herbicide plans where there are no previous consultation) Temporary roads that are new routes with no previous consultation	Forest management agreement (FMA) renewal New quota New FMA Forest management plan (FMP) amendment (e.g., mountain pine beetle amendment) General development plan (GDP), Community Timber Permit Program (CTPP), FMA, and quota holders Prescribed burn[2] (Types I and II) All another roads (mainlines)	Forest management plans
Transmission line and utility corridor	Power line easements, rural electrification association easements (REAs, REAs) and vegetation control easements (VCEs) that overlap existing surface dispositions, with < 5 m of new cut Power line (DI, REA, and VCE easements that do not overlap existing surface dispositions and are < 1 km long	Power line (DI, REA, and VCE easements that do not overlap existing surface dispositions and are < 1 km long	Large-scale regional transmission line projects
Geophysical	Intermediate intensive 3D seismic (≥ 100 m ≤ 200 m source line spacing)	Intense 3D seismic (≤ 0 m source line spacing); 3D seismic	n/a

[1] These matrices are intended to apply to: (1) land administered by AEP under the Public Lands Act and (2) all AEP decisions under the specified requirements relevant to such activities. They are not intended to apply to land administered by other ministries where there is no AEP decision.

[2] For the purposes of these matrices the following definitions apply: Type I prescribed burn is the most complex and has the greatest potential for impact. It involves standing timber, and it requires a detailed plan and proposal. Type II prescribed burn is complex and has some potential for impact. It generally involves standing timber, and it requires a detailed plan and proposal.

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

[illegible]

is still vested the Gov retains discretion to modify the level of consultation. There may be modifications to the level of consultation required, based on characteristics of the project, including location, scale, duration, and intensity. For examples, if a project is sited proximate to a known Métis Settlement harvesting or traditional use site, consultation may be assessed at a higher level, or if the expected duration is significantly shorter than average, then consultation may occur at a lower level.

Appendix B: Sector-Specific Activities That May Not Require Consultation

General

- *If consultation was deemed adequate within the past two years and there have been no adjustments to the scope or footprint of the project, consultation may not be required.*
- *Consultation on reclamation plans may not be required if the site was previously disturbed or previous consultation occurred within the footprint.*
- *Approval amendments and renewals: As long as the amendments/renewals are within the scope of the original approval and no new impacts are contemplated (new lands or novel impacts to existing lands), consultation may not be required.*

Forestry and Fire Management

Activities That Does Not Require Consultation
Type 3 prescribed burns: Least complex with little or no chance of impact. Generally consists of annual hazard reduction involving burning off grass meadows, loose vegetation, etc. There is no detailed planning and approval process.
Annual operating plans and operational plan amendments: Where changes to block location, harvest scheduling, and road design are consistent with the overall strategies of the FMP or the CDP, do not conflict with mitigation strategies to address concerns raised by a Métis Settlement in previous consultation, or where there was previous consultation.
Temporary roads: Where there was previous consultation at the CDP level.
Herbicide plans: Where there was previous consultation at the CDP level.
Compartment assessment: When previously identified and consulted on in the CDP process.

In all cases the GoA retains discretion to modify the level of consultation. There may be modifications to the level of consultation required, based on characteristics of the project, including location, scale, duration, and intensity. For examples, if a project is sited proximate to a known Metis Settlement harvesting or traditional use site, consultation may be assessed at a higher level, or if the expected duration is significantly shorter than average, then consultation may occur at a lower level.

Transmission Lines and Utility Corridors

Activities that may not require consultation
Power lines and vegetative control easements that overlap existing surface dispositions, with < 5 m of new cut.

Geophysical

Activities that may not require consultation
Non-intensive 3D and 2D (>300 m source line spacing) Activity is of a very low intensity (e.g., narrow meandering lines or utilizing existing lines); little or no disturbance to the ground-level vegetation or soils; no mechanical ground access; short duration (usually a few weeks); drill holes are plugged/reclaimed within one season; negative impacts to land are mitigated through approval conditions and exploration directives and directions within the *Policy and Procedures for Submitting the Geophysical Field Report*.

Coal, Minerals, and Quarries

Activities that may not require consultation
Program on existing linear disturbance, (e.g. roads, power lines) or disturbed areas or previously approved programs/dispositions.

Pipelines

Activities that may not require consultation
Pipeline installation or replacement on lease (PIL); and located on existing dispositions. Bored pipelines

Petroleum, Natural Gas, and Oil Sands

Activities that may not require consultation
Program on existing linear disturbance, (e.g. roads, power lines) or disturbed areas or previously approved programs/dispositions.

In all cases the GoA retains discretion to modify the level of consultation. There may be modifications to the level of consultation required, based on characteristics of the project, including location, scale, duration, and intensity. For examples, if a project is sited proximate to a known Metis Settlement harvesting or traditional use site, consultation may be assessed at a higher level, or if the expected duration is significantly shorter than average, then consultation may occur at a lower level.

Sand and Gravel

Activities that may not require consultation

Activities that are temporary, usually under 90 days, with land use ≤ 640 acres with a requirement for a temporary field authorization (TFA) or disposition operating approval (DOA) such as:

1. Surface materials[1] exploration activities subject to a surface material exploration approval (SME); or
2. Pits[2] that are subject to requirements under the *Code of Practice for Pits* and/or the *Environmental Protection and Enhancement Act* and/or the *Conservation and Reclamation Regulation*, and/or require a *Water Act* authorization.

Acronyms

AER – Alberta Energy Regulator
CEP – Coal exploration programs
CTPP – Community timber permit
DOA – Dispositional operational approval
EIA – Environmental impact assessment
EPEA – Environmental Protection and Enhancement Act
AEP – Environment and Sustainable Resource Development
EZE – Easement
FMA – Forest management agreement
FMP – Forest management plan
GDP – General development plan
LOC – Licence of occupation
MME – Mines and minerals exploration
OSE – Oilsands exploration programs
PIL – Pipeline installation on lease
REA – Rural electrification association
SAGD – Steam-assisted gravity drainage
SME – Surface materials exploration
SMC – Surface material licence
SML – Surface material lease
TEP – Transportation exploration program
TFA – Temporary field authorization
VCE – Vegetative control easement

[1] For the purpose of these matrices, surface materials include: marl, clay, silt, sand, gravel, having a depositional history that is not associated with the bedrock formation.
[2] For the purpose of these matrices, pits are defined as openings or excavations in or working off the surface or subsurface for the purpose of removing any sand, gravel, clay, or marl, of any size, but does not include:
(i) A borrow excavation,
(ii) A pit on public land, meaning land administered under the *Public Lands Act*,
(iii) A pit, or a portion of a pit, where the surface or subsurface of the land has not been disturbed by pit operations since August 15, 1978, or
(iv) A pit, or a portion of a pit, on which a waste management facility is operating or operated pursuant to a valid approval or registration under the *Environmental Protection and Enhancement Act*.

In all cases the GoA retains discretion to modify the level of consultation. There may be modifications to the level of consultation required, based on characteristics of the project, including location, scale, duration, and intensity. For examples, if a project is sited proximate to a known Metis Settlement harvesting or traditional use site, consultation may be assessed at a higher level, or if the expected duration is significantly shorter than average, then consultation may occur at a lower level.

Appendix C: Non Sector-Specific Activities That Do Not Require Consultation

Activity or Application
The activity is regulated by a code of practice under the *Water Act* and *Environmental Protection and Enhancement Act*.
The activity requires a short-term diversion and use of water authorized by a temporary diversion licence under the *Water Act*.
The activity requires temporary, short-term access to public land and is identified as "not requiring consultation" in the *Temporary Field Authorization Guidelines* (see tables C and D).
The activity consists of: • Adjustments, repairs, replacements, or maintenance made in the normal course of operations. • Short-term testing or temporary modifications to machinery, equipment, or processes that do not result in a new surface disturbance beyond the normal course of operations.
The application is for renewals and amendments to existing authorizations, including: • Correcting clerical errors; • Changing monitoring, reporting, or inspection requirements; • Effecting a change in ownership; • Addressing matters related to temporary discontinuance of an activity; • A single short-term extension (up to 1 year) of the expiry date for an authorization or a term or condition of the authorization; • Amend a term of condition if there is no new surface disturbance beyond the normal course of operations; • Amalgamate authorizations; • Filing as-built (final survey submissions) if the lands applied for have not changed from the original application; and • Amendment for the purpose of deleting lands from an application (deletion of lands)

Appendix D: Glossary

Approval
Includes authorizations or dispositions or licences or registrations or permits as defined under the appropriate statutes or regulations.

Crown
In Canada, the Crown may refer to the federal government and each of the provincial governments. Within this document, the Crown refers to the Government of Alberta (GoA or Alberta).

Decision
Includes any administrative, legislative, statutory, regulatory, policy, and operational decision of the GoA.

Harvesting or traditional use activities
Harvesting or traditional use activities within the meaning of the Policy.

Land and natural resource management
Activities (on or off Crown land) potentially affecting the use of provincial Crown land where such activities arise from decisions involving land, water, air, forestry, or fish and wildlife.

Proponent
An entity or person who is either seeking a Crown decision related to land and natural resource management or seeking an approval from the AER under the specified enactments.

Surface disturbance
Any disruption of an area that disturbs the Earth's surface or waters during activity or after an activity has ceased.

Strategic initiatives
An embracing or overarching policy addressing an objective of the GoA that may set a context in which project-specific consultation can occur.